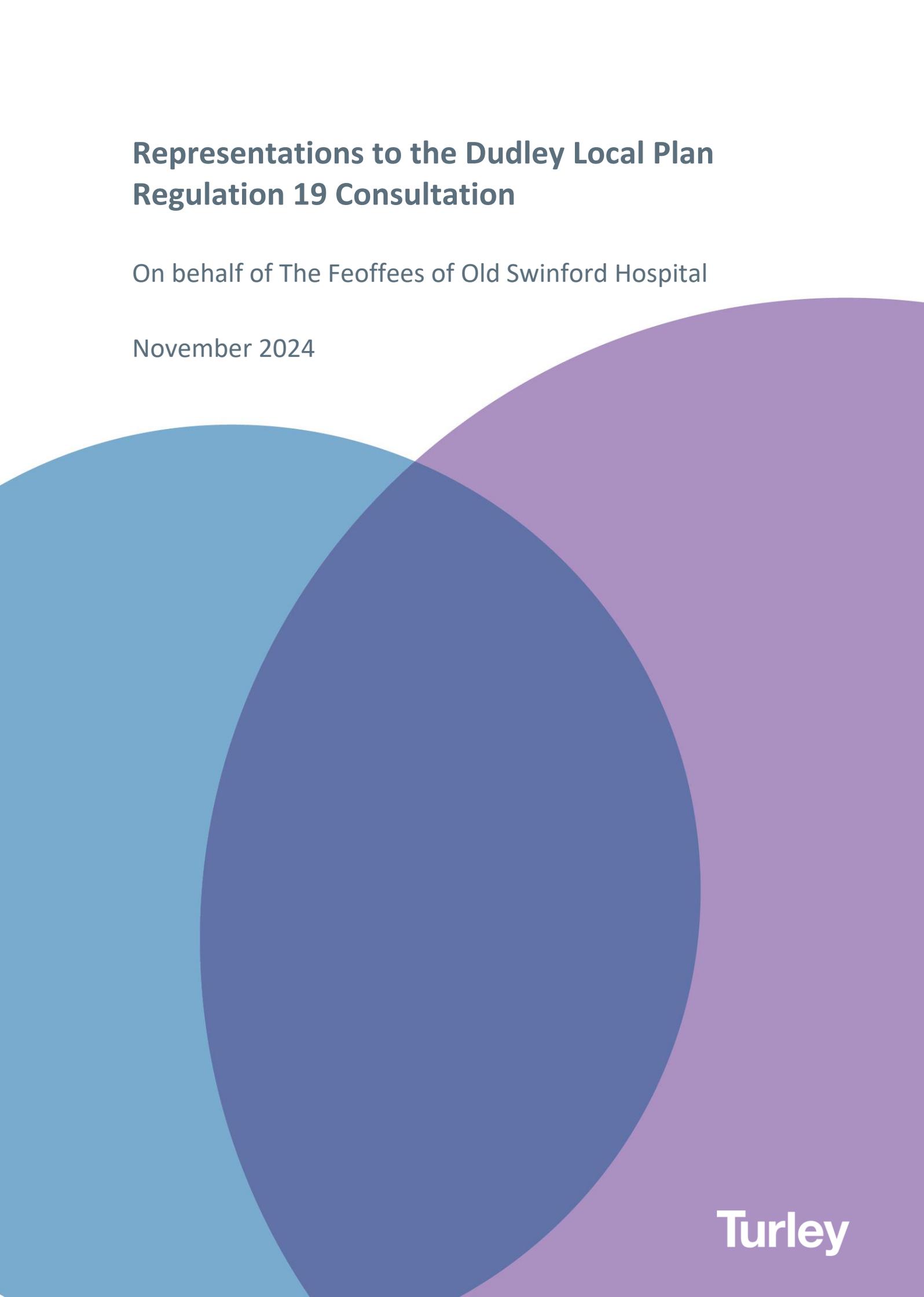


Representations to the Dudley Local Plan Regulation 19 Consultation

On behalf of The Feoffees of Old Swinford Hospital

November 2024



Turley

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1. Introduction

- 1.1 Turley is instructed by the Feoffees of Old Swinford Hospital ('the Foundation') to prepare their response to the Dudley Local Plan ('DLP') Regulation 19 consultation. The Foundation welcomes the opportunity to make representation on the draft version of the DLP.
- 1.2 The Feoffees of Old Swinford Hospital are the trustees of a charitable foundation which supports Old Swinford Hospital, a maintained voluntary aided school, situated in the centre of Stourbridge. The school was founded by Thomas Foley in 1667 as a place where boys could develop the skills and attributes required to go out into the wider world and make a difference. Upon Thomas Foley's death, the school was left to a group of trustees, his sons among them, known as Feoffees. This family tradition has survived the centuries and the Feoffees, including several direct descendants of the Founder, retain an active involvement in the School today as Feoffees and Governors. The School is now fully co-educational and welcomes both boys and girls, both as boarders and as day pupils.
- 1.3 These representations follow our response submitted on 22nd December 2023 to the Regulation 18 Consultation.

The Sites

- 1.4 The Foundation is actively promoting the following two sites:
- Land at Racecourse Lane, Stourbridge ('Racecourse Lane') (Council ref: DUD2023-048)
 - Land to the West of Worcester Lane, Stourbridge ('Worcester Lane') (Council ref: DUD2023-051)
- 1.5 Both sites were submitted via the Call for Sites exercise in March 2023. The Foundation owns the land at both Racecourse Lane and Worcester Lane and plans to develop each site separately for new homes, whilst retaining and enhancing recreational and green spaces. The income generated from the development will be reinvested entirely to support the Foundation's charitable objective, investment in Old Swinford Hospital School.

Racecourse Lane

- 1.6 Racecourse Lane comprises Stourbridge Golf Course to the north of Racecourse Lane, and an area of arable farmland to the south. Racecourse Lane is surrounded by existing residential development to the west, north, east, and south-east.
- 1.7 Racecourse Lane is in an area of High Historic Landscape Value. The existing golf course is covered by two non-statutory designated sites for nature conservation. The western half of the golf course is designated as a Site of Importance for Nature Conservation ('SINC'), referred to as 'Pedmore Common.' The eastern half is designated as a Site of Local Importance for Nature Conservation ('SLINC'), referred to as 'Stourbridge Golf Course.' Additionally, two further SINCS, which do not form part of any proposed

development site, are located near to Racecourse Lane, with Ounty John Wood adjacent to the eastern boundary of the arable farmland, and Norton Covert to the west of the arable farmland.

- 1.8 There is a Public Right of Way ('PRoW') which extends north from Racecourse Lane, passing through Stourbridge Golf Course, connecting to Melrose Avenue.
- 1.9 The Black Country Green Belt Review (September 2019) identified that a large extent of the site only makes a 'low-moderate' contribution to the Green Belt purposes given it is enclosed by residential development.

The Proposals

- 1.10 The vision for Racecourse Lane is to create a new neighbourhood of up to 650-700 new homes on the edge of Stourbridge to be of the highest standard, featuring bespoke, high-quality homes within an attractive landscape. The new neighbourhood will also feature the provision of on-site community infrastructure, including a primary school and nursery, and a primary health centre, the latter of which is **available immediately**, to support local needs. Moreover, the leisure amenity provided by the existing Golf Course would not be lost to Stourbridge as a replacement Golf Course would be provided opposite the current location south-west of Racecourse Lane.
- 1.11 The new neighbourhood will provide a natural urban extension to Stourbridge which reinforces the existing settlement pattern of Fairway Avenue/ Melrose Avenue/ Worcester Lane. The proposals for Racecourse Lane are landscape and biodiversity creation led, therefore key features of these proposals are new areas of woodland and creating opportunities for recreation and biodiversity.
- 1.12 As demonstrated by the enclosed concept masterplan at **Appendix 1**, the proposals for Racecourse Lane include:
 - The delivery of approximately 650-700 new homes of a mixture of sizes, densities, and tenures;
 - Provision of education and childcare facilities, including a potential primary school and nursery to the west of the site;
 - Provision of a new primary health centre, available to come forward immediately based on current needs;
 - Re-provision of a Golf Course circa 43ha, which will remain in the Green Belt and maintain a defensible boundary;
 - Preservation and enhancement of existing woodland, as well as the creation of additional woodland to protect and provide opportunities for recreation and biodiversity whilst providing a natural buffer to the north, whilst also delivering a newly accessible woodland, complementing the wider areas of public open space to be provided elsewhere within the development;

- Provision of significant public open space which will incorporate opportunities for locally equipped areas of play for new residents and surrounding neighbourhoods to enjoy;
- Provision of green infrastructure running through the development, incorporating tree planting, drainage features and pedestrian and cycle links;
- Re-providing the value of the existing SINC and, overall, delivering a measurable biodiversity net gain (as demonstrated by the Biodiversity Technical Note);
- Potential to deliver highways improvements that would make a positive contribution to the surrounding neighbourhood on the grounds of safety, reduction of carbon emissions and the environment; and
- In total circa 30% of the existing golf course site will become green infrastructure and open space as part of the proposals.

The proposals include a much-improved solution to replace Racecourse Lane. This will deliver significant benefits, given the road's current capacity, alignment (including a number of sharp bends) and issues with flooding. Achievability

1.13 Overall, Racecourse Lane has strong potential to be brought forward for housing over the short - medium term. The Foundation are the sole owners of the land therefore a planning application could be submitted immediately following adoption of the Dudley Local Plan. The proposals for Racecourse Lane are supported by Ecology and Transport technical notes enclosed in **Appendices 3-4**.

1.14 There are no technical constraints to development. The Historic England online register indicates that there are no listed buildings or scheduled ancient monuments within the site. The on-site constraints which have been identified such as the ProW, Pedmore Common SINC, Stourbridge Golf Course SLINC, and Ounty Johns Wood SINC are all set to be significantly enhanced by the proposals.

Early delivery

1.15 Although promoted as a single site, there is the opportunity for land immediately south of Ounty John Lane and to the west of Norton Road to come forward in the short term, which could unlock the potential health centre and primary school, as well as a new link road between Ounty John Lane and Norton Road. This land is not currently occupied by the golf course.

Worcester Lane

1.16 Worcester Lane comprises flat agricultural land with a Public Right of Way (PRoW) (ref: STR0140) running through the site from northeast to southwest. Worcester Lane is bound by existing homes to the east, a railway line to the west, and further development to the north, beyond the adjacent land which forms part of the same proposed allocation. Whilst there are no formal vehicle access points into the site at present, the site would have its own vehicular access off Worcester Lane, as well as an access point to the PRoW. There are existing tree and hedgerows within and around the site. The retention and enhancement of these features has been investigated as part of the preparation for the illustrative layout for Worcester Lane.

- 1.17 Worcester Lane is located within the Green Belt however it is not constrained by any environmental designations such as Sites of Special Scientific Interest, Special Areas of Conservation, Special Protection Areas or Ramsar sites. The Aqueduct Railway Cutting SLINC lies 10m south-west of the development which can be accessed from the public footpath running through the site. There are no heritage assets located within or close by Worcester Lane.

The Proposals

- 1.18 The proposed development at the Land to the West of Worcester Lane could deliver circa 120 new homes of a mixture of sizes, densities, and tenures, including affordable housing in a sustainable location that will round off the existing settlement edge as shown in the enclosed Illustrative Layout in **Appendix 5**. The proposals for Worcester Lane are supported by a number of technical notes in **Appendices 6-11**.
- 1.19 The proposals include a robust landscape buffer (circa 20m deep) at the southern extent, creating a new defensible Green Belt boundary as well as supporting wildlife and biodiversity enhancements. The proposals reflect the appearance and character of the surrounding area and maximise connectivity, including re-providing the PRoW which currently crosses the site. There is also the opportunity to potentially provide additional car parking on site, relieving the pressure on nearby streets as they can be used for parking by people wishing to walk in the wider area.
- 1.20 In addition to above, two areas of play and extensive public open space are proposed, including a new recreational route for new and existing residents to enjoy. The existing vegetation along Worcester Lane will be maintained along with additional planning of a mixture of trees.
- 1.21 A buffer is also to be provided between homes and the railway corridor to the west to ensure any noise from the railway line is mitigated.
- 1.22 Worcester Lane previously formed part of a wider proposed allocation in the now abandoned Draft Black Country Plan 2039 (site ref: DUH209). We will continue to engage with the landowners to the north to ensure a coordinated and comprehensive development is delivered across both sites, including exploring links between the two.

Achievability

- 1.23 Worcester Lane is unconstrained. There are no listed buildings or scheduled ancient monuments within or nearby, and there is no ecological designation, as demonstrated by the site assessment prepared by the Council as part of the now abandoned Black Country Plan (site ref: DUH209). Worcester Lane benefits from being in an accessible and sustainable location. No significant infrastructure is required to support the proposed new homes. Worcester Lane can be delivered early on in any plan period and so can assist the Council in maintaining a strong housing land supply following adoption of the Dudley Local Plan.

Ministerial Statement

- 1.24 On 30th July 2023, Angela Rayner, now Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government, published a Ministerial Statement setting out the new Government's first major steps in its plan to build the homes the

country needs and significantly boost housing land supply. The steps relate to revisions to housing targets, updates to 'Green Belt' policy, delivering more affordable homes, and supporting local planning. This sets the direction of travel for planning policy for next four years.

National Planning Policy Framework

- 1.25 A revised National Planning Policy Framework ('NPPF') was published for consultation in July 2024. The changes aim to strengthen and drive the delivery of housing and infrastructure. Among the key changes proposed is a new Standard Method ('SM'), generating a new national housing need of around 371,500 net additional homes per annum. **Table 1.1** sets out the proposed implications for DMBC and the Greater Birmingham and Black Country Housing Market Area ('GBBCHMA').

Table 1.1: Outcomes of the Revised SM

Location	Current Method	Proposed Method	Percentage Increase
Dudley	657	1,594	143%
GBBCHMA	14,377	17,016	18%

- 1.26 This notwithstanding, should the DLP be submitted following the Regulation 19 consultation before the new NPPF is published (anticipated to be in December 2024), the transitional arrangements are expected to allow the examination of the plan to proceed with the plan being assessed against the version of the NPPF the plan was prepared under (2023 version).
- 1.27 There is clearly a significant gap between what the DLP is planning for and the updated local housing need ('LHN') (i.e. more than 200 dwellings), and if adopted, the plan would therefore need to be reviewed at the earliest opportunity.

Green Belt

- 1.28 The Black Country Green Belt Study (2019) forms part of the evidence base for the DLP. In light of the proposed changes to Green Belt within the draft NPPF and the introduction of 'Gray Belt,' a new study should be commissioned which addresses the potential implications of these changes, including need for further refinement of the Green Belt boundaries, taking into account the revised planning policy.
- 1.29 Worcester Lane forms part of Parcel RefB60 - Fields at Iverley and north of Hagley. Racecourse land comprises of parts of Parcel RefB61 - South of Racecourse Lane & Stourbridge Golf Club [Central] and Parcel RefB62 - Stourbridge Golf Course [East and Club House].
- 1.30 **Table 2.3** sets out a high-level assessment of the performance of the Foundations sites against the five purposes of the Green Belt as defined in **Paragraph 143** of the NPPF.

Table 1.2: Green Belt – Site Assessment Site

Purpose	Assessment of Performance - Racecourse Lane	Assessment of Performance – Worcester Lane
To check the unrestricted sprawl of large built-up areas	<p>The site is on the southern edge Stourbridge. The nearest large built-up area would be Kidderminster, located approximately 7 miles from the site. Therefore, makes a limited contribution to restricting sprawl of a ‘large built-up area.’</p> <p>Moreover, the land is bound by suburban residential development to the north, east, southeast, and west and should be viewed within in context.</p>	<p>The site is on the edge Stourbridge. The nearest large built-up area would be Kidderminster, located approximately 7 miles from the site. Therefore, makes a limited contribution to restricting sprawl of a ‘large built-up area.’</p>
To prevent neighbouring towns merging into one another	<p>The site is on the southern edge of Stourbridge and bound by residential development to the north, east, southeast, and west. The relocation of the Golf Course to the south of Racecourse Lane will remain in the Green Belt, preventing neighbouring towns from merging.</p>	<p>The site it bound by the railway to the west adjoins the edge Stourbridge to the east, and does not adjoin any other settlement, therefore development of the site would lead to the merging of existing settlements.</p>
To assist in safeguarding the countryside from encroachment	<p>The site is on the southern edge of Stourbridge. The relocation of the Golf Course to the south of Racecourse will prevent this. The site is bound by residential areas on three sides and a roadway on the fourth, is effectively an integral part of the suburban residential neighbourhood.</p> <p>Whilst the land contains the characteristics of open countryside (i.e. an absence of built or other urbanising uses in Green Belt terms) but has a</p>	<p>The site is ‘sandwiched’ between a railway line and housing and therefore does not safeguard the countryside from encroachment.</p> <p>The Land contains the characteristics of open countryside (i.e. an absence of built or other urbanising uses in Green Belt terms) but has a stronger relationship with the urban area than with the wider countryside.</p>

stronger relationship with the urban area than with the wider countryside.

To preserve the setting and special character of historic towns

The land does not contribute to the setting or special character of a historic town.

The land does not contribute to the setting or special character of a historic town.

To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

DMBC is unable to meet its LHN and has exhausted brownfield sites.

DMBC is unable to meet its LHN and has exhausted brownfield sites.

- 1.31 The above demonstrates that for Worcester Lane and Racecourse Lane, their contribution to the Green Belt is weak – moderate. Both sites could play an important role in the delivery of new homes sustainably if released from the Green Belt. Therefore, whilst each site is greenfield and currently located within the Green Belt, given the pressing housing need, there are exceptional circumstances to justify reviewing Green Belt boundaries (as we set out in response to specific policies at section 2 of these representations).

Structure of representations

- 1.32 The Foundation has concerns regarding the draft spatial strategy which solely relies on brownfield sites to meet Dudley Metropolitan Borough Council's ('DMBC' or 'the Borough') housing needs.
- 1.33 These representations are structured as follows:
- **Section 2:** Sets out the Foundation's response to the draft policies, as well as providing a summary on soundness.
 - **Section 3:** Provides a conclusion to these representations.

2. Representations to the DLP regulation 19 Consultation Document Part 1

- 2.1 This section provides The Foundation's responses to the relevant policies contained within the DLP Part 1 'Spatial Strategy and Policies' consultation document.
- 2.2 The Foundation broadly supports the vision for the DLP as outlined in Section 4 (pages 59-60) and the strategic objectives and priorities in **Table 4.1** (pages 60-65). In particular, the Foundation supports **Strategic Priority 6** which confirms the need to provide new and affordable homes in a range of sizes, types, and tenures, with access to services and facilities, to meet the Borough's needs.
- 2.3 This aligns with DLP **Paragraph 2.15**, which notes that in the last five years (2019-2023), average house prices and rents in DMBC have increased by 31.3% / 26.6%, outpacing both the national the regional prices. This demonstrates a need for a need for an increased housing supply and affordable housing options in Dudley.
- 2.4 The Foundation however raises concerns with **Strategic Priority 3**, which emphasises delivering new development on previously developed land within the urban area while safeguarding the Green Belt.
- 2.5 The Foundation is also concerned that if submitted with the current spatial strategy, the DLP would fail the meet the test of soundness as outlined at **Paragraph 35** of the NPPF (2023) and will not deliver the vision set out by the plan.
- 2.6 Our responses to the draft policies are set out below.

Policy DLP1 Development Strategy

- 2.7 The Foundation considers Policy DLP1 to be unsound for a number of reasons:
- It does not represent Dudley's full housing need and will fail to meet the needs of the Borough;
 - It is based on a flawed consideration of alternatives; and
 - There is no solution to meeting Dudley's proposed shortfall.
- The plan and Policy DLP1 do not represent Dudley's full housing need**
- 2.8 The Development Strategy within draft **Policy DLP1** confirms that the plan will deliver "*at least 10,470 net new homes and create sustainable mixed communities that are supported by adequate infrastructure.*" The Foundation objects to the draft wording of this policy, it represents the plan's proposed **supply only** as per the 2023/24 Strategic Housing Land Availability Assessment ('SHLAA') and **does not** reflect that borough's actual LHN (based on the current SM), which amounts to 11,169 homes, rather than 10,470 homes.

2.9 By not meeting the Borough's needs in full, **Policy DLP1** contradicts **Strategic Priority 6** which seeks to create thriving neighbourhoods by providing new and affordable homes in a range of sizes, types, and tenures to meet the Borough's housing need. The LHN should be the minimum starting point, as per the requirements of NPPF **Paragraph 35a**).

2.10 **Table 5.1** within draft **Policy DLP1** outlines the DLP's development strategy. As stated in DMBC's response to the Sandwell Local Plan consultation (dated 16th March 2023), it is important for authorities to meet its own housing needs within its own boundaries as far as possible to reduce the wider housing market area shortfall.

The plan and Policy DLP1 are based on a flawed consideration of alternatives

2.11 **Table 5.1** (page 29) of the Sustainability Appraisal ('SA') (September 2024) confirms that only three housing spatial growth options were assessed, none of which consider the role Green Belt can contribute to meeting the Borough's needs. As a minimum the SA should be considering the option of releasing land from the Green Belt to meet development needs, even if it goes on to discount it.

2.12 Indeed, Green Belt should not be treated as a 'gateway constraint' and a determinative factor as to whether a site is suitable, which is the Council's approach in not considering it as part of the plan's development strategy. It has been demonstrated within the DLPS's evidence base that this strategy will not meet Dudley's LHN in full. NPPF **Paragraph 11b**) notes that strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas. Whilst footnote 6 for **Paragraph 11b i**) indicates that the Green Belt (and other protected areas) policy provides a reason to limit development.

2.13 It is well known that developing brownfield land involves significant costs that affect viability, as well as longer lead times due to the need for site clearance, demolition, site remediation, and service diversions. The updated Start to Finish Report – How quickly do large-scale housing sites deliver? (March 2024) produced by Lichfields found that it is 34% quicker to deliver greenfield sites of 500 or more units than compared to brownfield counterparts.

2.14 For this reason, the plan's approach to consideration of alternatives is flawed, resulting in the plan and its associated spatial strategy being unjustified, contrary to NPPF **Paragraph 35**. The policy is therefore not sound, as set out in greater detail below.

There is no solution to meeting Dudley's proposed shortfall

2.15 **Table 5.1** in the DLP confirms that the shortfall (699 dwellings) is to be exported to the wider GBBCHMA through to Duty to Cooperate ('DtC') process. **Table 2.1** below, based on page 35 in the DLP and the supporting DtC Statement (October 2024), confirms the following contributions have been proposed by other GBBCHMA authorities to date.

Table 2.1: Housing Contributions

Local Authority	Contribution	Potential Towards Dudley	Signed Statement of Common Ground Y/N
Shropshire Council	1,500 homes to Black Country authorities only up to 2038	431 (subject to formal agreement/ Statement of Common Ground between BCAs)	N
Cannock Chase DC	500 homes to GBBCHMA	Potential apportionment of 16 homes to Dudley. Subject to formal agreement/SoCG between BCAs and Birmingham City Council.	N
South Staffordshire District Council	640 homes to GBBCHMA	Potential appointment of 153 homes to Dudley. Subject to formal agreement/SoCG between BCAs and Birmingham City Council.	N
Telford & Wrekin Council	1,650 homes to GBBCHMA	Potential appointment of 242 homes to Dudley. Subject to formal agreement/SoCG between BCAs and Telford & Wrekin.	N

2.16 Firstly, DMBC is one of fourteen local authorities that make up the GBBCHMA, with a number of other authorities intending to export unmet needs to neighbouring authorities in the HMA. Birmingham, the largest local authority within the GBBHMA, has begun reviewing its local plan, with consultation on its Regulation 19 plan held in summer 2024. The Plan identified a supply of 103,000 dwellings, resulting in a shortfall of 45,300, based on a need of 149,180. Even when considering the outcomes of the proposed SM (as part of the draft NPPF consultation), there is still a significant shortfall of circa 10,000 new homes. Beyond this, Sandwell and Wolverhampton are also intending to submit local plans with significant shortfalls – 15,916 homes and 10,398 homes respectfully.

2.17 Secondly, none of the above proposed contributions are from adopted plans. The most advanced is Shropshire (at examination), though there is significant risk this contribution will materialise (as summarised below). Telford and Wrekin’s plan is very early on and with the new NPPF likely to significantly increase the Borough’s needs, it is unlikely the Borough would be able to make any contribution to neighbouring authorities.

Shropshire

2.18 On 29th October 2024, the Inspectors to the Shropshire Local Plan (‘SLP’) examination wrote to the Council highlighting they have “*significant concerns about the soundness of the Plan*”. Given the seriousness of their concerns, they have advised that the remaining hearing sessions scheduled between 18th and 25th November and 2nd December, should be cancelled. It may be that the SLP is withdrawn or found sound at this point, which would compromise the potential 431 home contribution to Dudley.

2.19 In any case, an addendum to Statement of Common Ground (‘SoCG’) between Shropshire Council and the Black Country authorities was published in October 2024. This statement is clear that the specific contribution to Dudley from Shropshire is not agreed, instead it is a matter for the Black Country authorities as to how any contribution would be distributed, to be agreed through the DtC process.

Telford and Wrekin

2.20 There is also significant risk with Telford and Wrekin’s proposed contribution. It has been confirmed that their local plan will now be prepared in accordance with the soon to be published NPPF. The draft NPPF anticipated a 106% increase in Telford and Wrekin’s SM. This would be a significant and, in a response, it is likely that the Council’s focus will be on meeting its own need, rather than offering any contribution to neighbouring authorities.

2.21 Ultimately, there are no signed SoCGs in respect to this need. The 2022 GBBCHMA Development Needs Group SoCG confirms that “*there is, as yet, **no agreed approach** to accommodating the shortfall across the GBBCHMA or other closely related Local Planning Authorities with an agreed functional relationship, which can accommodate unmet need in a sustainable manner.*” In light of this, it is unknown how much of the proposed homes will be attributed to the DLP and should therefore not be relied upon by DMBC in order to meet their minimum housing needs.

Summary

2.22 The overall development strategy proposed by draft **Policy DLP1** is not positively prepared.

2.23 Notwithstanding the plan’s starting point for establishing housing need, we establish in response to Policy DLP10 that the plan supply is not justified and is unlikely to be delivered to the total proposed.

2.24 Reflecting the above, it is very clear that exceptional circumstances exist to review Dudley’s Green Belt. Given this reviewing Green Belt boundaries and proposing allocation of land for residential needs should form part of the plan’s strategy. This should include consideration of the Foundation’s land at Racecourse Lane and Worcester Lane, in Stourbridge.

- 2.25 This would align with NPPF **Paragraph 60**, which emphasises the need for a sufficient and diverse range of land available for development to meet the Government's objective of significantly boosting the supply of homes.

Policy DLP3 Areas outside the Growth Network

- 2.26 Following on from **Policy DLP1**, **draft Policy DLP3** is also not considered to be sound given it intends to maintain the borough's Green Belt boundaries without any review. As per our response to **Policy DLP1**, NPPF **Paragraph 109** states that new development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This paragraph does not limit new development to brownfield sites only.

Policy DLP10 Delivering Sustainable Housing Growth

- 2.27 Draft **Policy DLP10** establishes that the plan will deliver at least 10,470 net new homes over the plan period to 2041, as summarised in **Table 8.1** in the policy and all housing allocations are set out in DLP Part Two. **Table 8.1** reflects Table 7 of the Council's SHLAA (p24). Notwithstanding the fact the plan will not meet the Borough's minimum housing needs, the Foundation is of the view that the plan will not be capable of delivering 10,470 homes before 2041 for the following reasons:

- Occupied employment sites expected to make a significant contribution to the supply;
- Evidenced poor viability of delivering brownfield sites; and
- Specific unevidenced proposed supply from Brierley Hill Strategic Centre and Regeneration Corridor 2.

Occupied employment sites

- 2.28 The Foundation is concerned that a significant amount of the supply (11%) comes from occupied employment sites (1,204). There is no evidence to demonstrate these sites are either available or deliverable across the plan period.

- 2.29 Some of these sites have been allocated since the adoption of Dudley's Development Strategy in February 2017. In light of the above, occupied employment sites should be removed from the supply entirely and not proposed for allocation or included as an existing commitment.

Evidenced poor viability of delivering brownfield sites

- 2.30 Out of the five priority sites, only Ketley Quarry is assessed as viable in the supporting Viability Assessment, with the other four deemed 'marginal' (although at p109 Ketley Quarry was still caveated based on 'generalised' remediation costs).
- 2.31 The four other sites are in areas of 'low value brownfield' and require significant infrastructure delivery and site remediation to unlock them, as well as overcoming other constraints such as conservation, ecology, and ownership. **Paragraph 10.15** in the DLP Viability Assessment concludes that, for DMBC to achieve its housing need it is likely grant funding will be required to facilitate development - particularly on

brownfield sites with an industrial legacy to overcome and/or in a low value market area. Sites that are deemed “suitable, available and achievable” only with the assumption of external funding should not be relied upon as priority sites within the housing land supply. Funding is not guaranteed, and the inclusion of these sites could potentially undermine the delivery of housing if funding fails to materialise.

Brierley Hill Strategic Centre

- 2.32 The Foundation notes that Brierley Hill Strategic Centre site is to deliver a total of 1,546 new homes during the proposed plan period. The Brierley Hill Strategic Centre was first allocated in the adopted Black Country Core Strategy (‘BCCS’) under **Policy HOU1**.
- 2.33 The Authority Annual Monitoring Report (‘AMR’) for DMBC covering the period of 1st April 2023 to 31st March 2024 confirms that Brierley Hill Strategic Centre has only delivered 564 homes against its indicative BCCS target of 2939 homes. It is acknowledged that housing delivery will increase subject to the completion of the Metro Extension, which has been delayed due to funding pressures. With only 564 homes delivered against an indicative BCCS target of 2,939, it is clear there are deliverability issues. Until these are resolved and evidence provided to demonstrate this source of supply is deliverable, it should be removed from the plan.

Regeneration Corridor 2

- 2.34 The same concerns apply to Regeneration Corridor 2 (formerly Regeneration Corridor 11b). Despite the BCCS target of 2,060 homes, only 1,171 homes have been delivered to date, leaving a significant shortfall. The DLP proposes a further 972 new homes for this area, but noting the past delivery rates, it is unclear whether this target can realistically be achieved within the proposed plan period and raises questions about the feasibility of the housing strategy for this corridor.
- 2.35 In summary, there is no evidence to demonstrate the deliverability of the proposed housing supply. Indeed, there is evidence to the contrary, such as the Council’s own Viability Assessment.

Policy DLP49 Green Belt

- 2.36 The Foundation objects to the wording of draft **Policy DLP49** which states that “*a strong Green Belt will be maintained to promote redevelopment and regeneration within the urban area and provide easy access to the countryside where the landscape, visual amenity, nature conservation and outdoor sport and recreation value of the land will be protected and enhanced.*”
- 2.37 Exceptional circumstances exist for the DLP to consider the careful release of suitable Green Belt land to meet housing need. A critical issue for DMBC now and in the future is ensuring a land supply that meets the housing needs of the Borough. Identifying enough homes within its boundaries from both brownfield and greenfield land (including Green Belt) will improve the lives of residents and meet the needs of future generations who wish to live in Dudley. The DLP should be ambitious in addressing this issue.

Conclusions on soundness

2.38 NPPF **Paragraph 35** outlines the criteria for evaluating the soundness of local plans and spatial development strategies once submitted for examination. **Paragraph 35** emphasises the importance of sound local plans and spatial strategies in guiding development decisions and ensuring sustainable and well-planned growth throughout England. **Table 2.2** below outlines the Foundation’s response to each strand of soundness when considered in the context of the preparation of the DLP.

Table 2.2: Test of Local Plan Soundness

Test	Objective	The Foundation’s comment
Positively prepared	Providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development.	The DLP’s strategy does not meet the Borough’s objectively assessed housing need. Whilst there have been discussions with neighbouring authorities, there are no formal agreements with neighbouring authorities so that its unmet need can be accommodated elsewhere. It can be concluded that the DLP has not been positively prepared.
Justified	An appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence.	The site assessment methodology is not well-founded and does not evaluate sites outside of the urban area. There is no compelling evidence or justification for this approach.
Effective	Deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground.	The DLP unmet housing need has been deferred rather than considered within Dudley’s boundary via an appropriate site assessment. There is a significant unmet need across the wider HMA which has not been considered by DMBC whilst drafting the DLP. There is no signed SoCG agreed between Dudley and its neighbouring authorities. As such, it can be concluded that the DLP is not effective.
Consistent with National Policy	Enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant	The golden thread of the NPPF is achieving sustainable development. Achieving sustainable development means that the planning system has three overarching objectives (environmental, social, economic). For plan-making, all plans should promote sustainable pattern of development that

seeks to meet the development needs of their area, aligns with growth and infrastructure, and mitigates climate change. The DLP does not meet the needs of the area (or the wider HMA) and does not support the Government's objective of significantly boosting the supply of homes. It can be concluded that the DLP is not consistent with national policy.

- 2.39 Section 20(2) of the Planning and Compulsory Purchase Act 2004 (as amended) ('PCPA') stipulates that a Local Planning Authority ('LPA') must not submit a plan unless it believes it is ready for examination. As published, the plan should fail the test of soundness at examination. To align with the objectives of the NPPF and ensure the plan is legally sound, the Council should review and amend its Green Belt boundaries to ensure its housing needs are met in full, as reflected in our responses to the policies above. Indeed, exceptional circumstances have been demonstrated, given that the plan's proposed supply is unjustified and the pressing housing needs.

Draft NPPF

- 2.40 Furthermore, in anticipation of the new NPPF, the DLP should clearly confirm its review mechanism. It is not clear when and how DMBC will review the DLP if adopted. Under regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) local planning authorities must review local plans at least once every 5 years from adoption to ensure that policies remain relevant and effectively address the local needs.
- 2.41 The DLP is due to be submitted in Spring/Summer 2025 according to the July 2023 Local Development Scheme. The new NPPF is anticipated to be published in December 2024. **Paragraph 226 a)** in the draft NPPF states, the policies in the Framework will apply for the purpose of preparing local plans unless if the emerging annual housing requirement in a local plan that reaches or has reached Regulation 19 (pre-submission stage) on or before the publication date is no more than 200 dwellings below the published relevant LHN. The DLP as a planned shortfall of 699 dwellings, and therefore, the DLP would have to be reviewed or revised to comply with the NPPF policies once published, as it falls outside the allowed exception range.
- 2.42 However, we note from the agenda of the upcoming Council meeting on 2nd December, that Council intends to submit the DLP to ensure that provisions of Paragraph 226 c) apply. Part c) states if a local plan is submitted for examination under Regulation 22 by one month after the new NPPF's publication date, the new framework's policies will not apply to that plan.
- 2.43 Paragraph 227 of the draft NPPF states that where Paragraph 226 c) applies, adopted local plans with annual housing requirements over 200 dwellings below the LHN must begin preparing new plans under the updated system **promptly** to address the housing shortfall. This further highlights the importance of incorporating a local plan review mechanism within the DLP.

3. Summary

- 3.1 The Foundation welcomes the opportunity to engage with the DLP Regulation 19 consultation.
- 3.2 The Foundation has serious concerns that the DLP will fail the test of 'soundness' as outlined in NPPF **Paragraph 35** if submitted prior to the publication of the NPPF.
- 3.3 As demonstrated in **Section 2** of these representations, the Foundation has concerns regarding the plan's overall spatial strategy which seeks to maximise development on brownfield land and restrict development elsewhere, in particular, development on land currently in the Green Belt.
- 3.4 It is clear that DMBC have exhausted all the brownfield options within its boundaries, and it has been demonstrated that DMBC cannot meet its LNH in full. There is uncertainty regarding the supply and whether DMBC can rely on meeting its unmet via SoCG mechanism.
- 3.5 The Council should consider all available sites within the Borough and undertake a comprehensive and holistic review, including sites in the Green Belt. Green Belt should not be treated as a determinative factor as to whether a site should be selected or not, instead it should be considered as part of the overall balance, much like other factors such as ecology, heritage, landownership etc.
- 3.6 The Foundation has actively promoted Racecourse Lane and Worcester Lane as a sustainable and deliverable opportunities for new homes and associate infrastructure. Both sites are under the sole ownership of the Foundation and make a limited to contribution to the Green Belt. Both sites have a stronger relationship with the adjacent urban area than with the wider countryside making them suitable for development. With regards to Racecourse Lane, the replacement Golf Course would ensure no loss of leisure amenities nor real loss of a defensible Green Belt boundary.
- 3.7 The Land to the West of Worcester Lane, Stourbridge, could provide 120 new market and affordable homes and associated infrastructure, such as extensive open space and new recreational routes. Worcester Lane is unconstrained and located in an accessible location close to existing residential development, which can contribute to the Borough's housing need in the short to medium term. Worcester Lane is suitable, available, and development is achievable and was previously proposed for allocation in the Draft Black Country Plan 2039.
- 3.8 The Land at Racecourse Lane would create a new community offering a diverse range of 650-700 new homes in a highly accessible and sustainable location whilst retaining the provision of a golf course. There are also significant wider community benefits such as the provision of a new primary school, nursery and healthcare facility, extensive public open spaces, biodiversity enhancements and highway improvements. Indeed, there is an opportunity for immediate delivery of the first phase of the site, which could unlock the education and healthcare provision.

3.9 We would welcome the opportunity to discuss the contents of these representations further with officers and to discuss both sites' potential to assist them in contributing to housing supply for the proposed plan period.

Appendix 1: Racecourse Lane - Concept Masterplan

Appendix 2: Racecourse Lane - Ecology Technical Note

**Appendix 3: Racecourse Lane - Transport
Technical Note**

Appendix 4: Worcester Lane - Illustrative Layout

Appendix 5: Worcester Lane - Constraints and Opportunities Plan

**Appendix 6: Worcester Lane - Arboricultural
Survey Report**

**Appendix 7: Worcester Lane - Geotechnical
Technical Note**

Appendix 8: Worcester Lane - Noise Assessment

**Appendix 9: Worcester Lane - Preliminary
Ecological Appraisal**

Appendix 10: Worcester Lane - Transport Appraisal